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MEETING THE CHALLENGE

SASKATCHEWAN HUMAN RIGHTS COMMISSION

ANNUAL REPORT 1990

Saskatchewan Human Rights Commission

1990 Annual Report

91-04138/

The Saskatchewan Human Rights Code states:

3. The objects of this Act are:

a) to promote recognition of the inherent dignity and the equal inalienable rights of all members of the human family; and

b) to further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

SASKATCHEWAN

HUMAN RIGHTS COMMISSION

802, 224-4th Avenue South
Saskatoon, Saskatchewan
S7K 2H6

Telephone: 933-5952
Telewriter:
306-373-2119
Fax: 933-7863
Toll Free: 1-800-667-9249

Chief Commissioner
Theresa A. Holizki, Q.C.

Commission Members
Isabelle Impey
Jan Kernaghan
Ken Mah
Phyllis Unrau

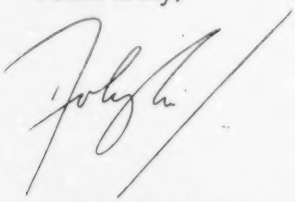
March 18, 1991

The Honourable J. Gary Lane, Q.C.
Minister of Justice
Room 355
Legislative Building
Regina, Saskatchewan
S4S 0B3

Dear Mr. Lane:

It is with pleasure that I submit the 1990 annual report of the Saskatchewan Human Rights Commission to you, pursuant to Section 49 of *The Saskatchewan Human Rights Code.*

Yours truly,



Theresa A. Holizki
Chief Commissioner

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Saskatchewan Human Rights Commission Members

Theresa A. Holizki, Q.C.
Chief Commissioner

Isabelle Impey

Jan Kernaghan

Ken Mah

Phyllis Unrau

Saskatchewan Human Rights Commission Offices

Kenneth C. Jamont, Director

Head Office:
802 - 224 4th Avenue South
Saskatoon, Saskatchewan
S7K 2H6

Telephone:	933-5952
For hearing impaired persons:	373-2119
Toll Free:	1-800-667-9249

Regional Office:
3rd Floor, 1942 Hamilton Street
Regina, Saskatchewan
S4P 3V7

Telephone:	787-2530
For hearing impaired persons:	787-8550
Toll Free:	1-800-667-8577

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1990: MEETING THE CHALLENGE

1990 has been a challenging year for the Saskatchewan Human Rights Commission.

Several difficult issues were addressed last year; one of the most difficult was the conflict between the individual's right to freedom of speech and the minority group's right to be protected from hate literature.

Section 14 of *The Saskatchewan Human Rights Code* protects minority groups from published statements or symbols that expose groups to hatred or that ridicule, belittle or other wise affront their dignity; Section 5 of the *Code* protects the individual's right to freedom of speech.

Clearly, there are times when those two rights will be in conflict. When that happens, these rights must be balanced in some way.

The Supreme Court of Canada, in recent decisions concerning hate messages, has given legal affirmation to the view that there are times when an individual's right to freedom of speech must be curtailed.

In Saskatchewan, the issue was brought into focus as the result of a complaint made to the Commission about three stickers displayed and sold at the Chop Shop in Saskatoon. The stickers are caricatures of a Black person, a Sikh person, and a person of the Chinese ancestry with the "not allowed" symbol drawn over each face.

After assessing the stickers, the Commission determined that there were reasonable grounds to believe the stickers violated the *Code*. The Commission therefore applied to the Court of Queen's Bench for an injunction restraining the owner of the Chop Shop from selling or displaying the stickers.

An injunction is an extraordinary measure, but the Commission believed it was necessary to get the stickers off the market as soon as possible. In our view, the stickers were doing irreparable harm; they were likely to influence individuals to view the groups depicted in a negative way and, as well, they were detrimental to the self-respect of every individual in those racial groups.

The matter is going to trial in January 1991. The decision will be a significant one; we anticipate it will provide guidance in determining the scope of this particular section of the *Code*.

Another difficult issue we dealt with in 1990 was the lack of private sector employers participating in affirmative action plans. The question for us now is how to encourage them to give affirmative action a try.

Although the *Code* does give us the authority to order an affirmative action plan, we have never done so. A board of inquiry established by the Minister of Justice, however, did make such an order in 1990, a first in Saskatchewan.

MacMillan Bloedel was ordered to set up an affirmative action plan to help counter the systemic discrimination against women that was identified in the plant; we are working co-operatively with MacMillan Bloedel in formulating that plan, in compliance with the board of inquiry order.

Affirmative action is an area where there can be very effective co-operation between employers and the Commission, resulting in affirmative action plans that will benefit everyone who participates.

Research has shown that it is in an employer's best interest to have an affirmative action plan in the workplace, benefiting both productivity and morale. It is clear we will have to work harder to get that message across.

All affirmative action plans now in operation in Saskatchewan were implemented voluntarily. There are 11 employment plans, 6 in training institutions and 19 in schools.

More than 23,000 employees participate in employment plans. Some of the major employers with affirmative action plans are the Government of Saskatchewan and the cities of Saskatoon and Regina.

The goal of affirmative action employment plans is to end up with a fair representation of target group members in the workforce. In Saskatchewan, the target groups are women, people with disabilities, and those of Indian ancestry.

Affirmative action plans are wonderfully flexible and can be adapted to suit just about any organization or institution. Proof of their flexibility can be seen in Education Equity, a special kind of affirmative action program for schools that is, as far as we know, unique in Canada.

Implemented by school boards with large numbers of Aboriginal children, it is designed to ensure equal participation for them in the school system. The goal is to reduce the number of Aboriginal children who drop out of school before they have completed Grade 12.

Last year was the first time public monitoring hearings were conducted to review the 19 Education Equity plans now in

operation. The Commission, which monitors all affirmative action plans in the province, congratulated several boards for innovative plans and challenged other boards to match their success. Approximately 75,000 students in Saskatchewan are covered by Education Equity plans.

In another school-related initiative, the Commission encouraged all schools to deal with the sensitive issue of race discrimination in the classroom. In co-operation with the Canadian Human Rights Commission, it co-ordinated the development of a lesson plan for Grades 4-6 and a bibliography on the topic of racism. The package was sent to all elementary schools in the province.

With the launch of those materials in October, we hoped to achieve two goals: one, a recognition of the fact that we need to face the problem of racism in our society so that we can deal with it; two, recognition that teachers who wish to address this issue need support and assistance in their efforts to teach young people about the negative aspects of racism.

Another issue of concern is the Commission's lack of independence from the government of the day. Under the present system, the Commission reports to a government minister and commissioners are appointed by the government. In addition, the budget process is directed by a government department.

We believe it would be preferable to report to the Legislative Assembly through the Speaker of the House, rather than directly to a government minister, and if Commission members were appointed by the Legislative Assembly as a whole. We have recommended in the past that these changes be made to the *Code*.

Another challenge, this one faced by all Canadians, came into sharp focus in 1990; that is the issue of multiculturalism and what it means.

We have heard it said time and time again that the face of Canada is changing. A look at statistics shows us that this is true. Once, most newcomers to Canada came from European nations. Now, more and more immigrants are coming from Asia, Central America, India and Pakistan.

Most people would agree that Canadians should not be discriminated against in the workplace or in housing, for example, because of their race or the color of their skin. The multiculturalism policy of Canada and Saskatchewan says that aboriginal people and ethnic groups have a right to more than that; they have the right to maintain their culture and traditions.

There are some who see that as a threat to Canadian unity, arguing that a multicultural policy will create a nation that is weaker and less vital. However, we have only to look at Canadian history to know that is not the case. Canada has always been a nation made up of diverse cultures. Saskatchewan, in particular, is made up of many ethnic groups. It is that blend of diversity which is our heritage.

We agree with a statement made recently by the Minister responsible for Culture, Multiculturalism and Recreation: "Multiculturalism enriches us all, making Saskatchewan a better place to live. Our lives are made more fulfilling because of the strength and diversity of Saskatchewan's ethnocultural traditions."

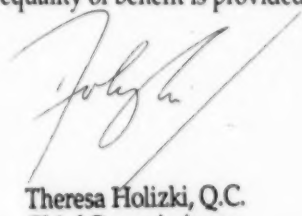
This is the time to strengthen our support for multiculturalism and to recognize the role it has played in the history of our country and our province. In addition, we should be ensuring that ethnic and racial minorities are able to participate fully in Saskatchewan society.

Sadly, full participation has not always been given to some ethnic and racial groups. The history of Aboriginal people, in particular, is a discouraging example of how a dominant group denied a minority group, by law, the right to practice their religion, their language and their traditions.

Diversity can be viewed as a source of conflict or as a benefit to society. There is no question that the benefits newcomers bring are real. For example, they bring their workplace skills and business experience to the economy. In addition, a growing population assists in economic growth.

And finally, there is perhaps the greatest benefit of all, the enriching of the Saskatchewan heritage by the addition of new cultural traditions.

It is true that in many important ways, Canada is changing. We all need to be prepared to meet the challenges that come with change and diversity. And we need to structure those changes to ensure that equality of benefit is provided for all.



Theresa Holizki, Q.C.
Chief Commissioner

COMMISSION MEMBERS

Commission members are appointed by the Lieutenant-Governor in Council for a five-year term, which may be extended for a further five years. The Commissioners attend monthly meetings where they set policy, approve settlements, review complaints, decide whether complaints should go to a board of inquiry, and consider applications for affirmative action programs and exemptions.

In addition, the Commissioners further public education by providing information about *The Saskatchewan Human Rights Code* and the principles upon which it is based.

The Commission employs a professional staff located in offices in Saskatoon and Regina to carry on the daily work of the Commission and to fulfill the mandate of the *Code*.

Theresa Holizki was appointed Chief Commissioner of the Saskatchewan Human Rights Commission in August, 1989.

She had earlier served as Deputy Chief Commissioner of the Commission from 1983 to 1987. She has been active in a number of organizations concerned about human rights, including LEAF (Women's Legal Education and Action Fund), the National Council of Women, the Elizabeth Fry Society, and the Public Legal Education Association of Saskatchewan.

She has an honors degree in history, a Bachelor of Laws degree from the University of Saskatchewan, and a Master of Business Administration (MBA). She has been a partner in two private law practices in Saskatoon, and is a member of the Saskatchewan Law Society and the Saskatoon Bar Association. In 1989 she was appointed Queen's Counsel (Q.C.)

Jan Kernaghan received her Bachelor of Laws in 1978. She is practicing law in Prince Albert and is currently with the firm of Sanderson and Wilkinson. She has been president of the Prince Albert Business and Professional Women's Club, secretary-treasurer of the Prince Albert Sexual Assault Center Inc., and an executive member of the Catholic Family Services board in Prince Albert. She is currently a member of the Economic Development Committee of the City of Prince Albert. She is also a long-time member of the Canadian Bar Association.

Phyllis Unrau is a business woman who shares responsibility for the family insurance business with her husband. A long-time resident of Martensville, she has several years of involvement in community and church organizations. She is a member of the Mennonite Church and has been active in several church committees, has been community liaison for the Saskatoon Community College, has been involved in the local Home and School Association, is a member of the Chamber of Commerce and has served on its executive.

Isabelle Impey is co-ordinator of the Native Human Justice Program for the Gabriel Dumont Institute in Prince Albert. She is an active volunteer in the native community and is a member of the Association of West Central Native Women and the Prince Albert Indian-Metis Friendship Centre. Impey also works with women who, at one time in their lives, have experienced family violence. She assists self-help groups and also does training in the area. She has been actively involved in the implementation and operation of Prince Albert's Interval House, a transition house for battered women, where she served as a management committee member for four years. She is a member of the Citizen's Advisory Committee for the Saskatchewan Penitentiary and is a member of the Justice Committee for the Metis Society of Saskatchewan. Impey is also a commissioner of the Canadian Human Rights Commission.

Ken Mah is president of Skyco International Management Ltd. He is active in the community and has been a member of the Regina Multiculturalism Council for 13 years. He was a founding member of the Chinese Cultural Association of Saskatchewan and was the organization's first president. He has also been a strong supporter of the Chinese Pavilion at Mosaic for 13 years, and was the Pavilion's ambassador for two years. He is a founding member of the Chinese Canadian National Council (CCNC), a national organization whose purpose is to promote equality for Chinese Canadians. He is also co-chairman of the South Saskatchewan Chinese Senior Citizens Home and is actively involved in the Chinatown concept in Regina.

COMMISSION MANDATE

The Saskatchewan Human Rights Commission is a government agency established to administer The Saskatchewan Human Rights Code.

The purpose of the *Code* is to:

a) promote recognition of the inherent dignity and the equal inalienable rights of the human family; and

b) further public policy in Saskatchewan that every person is free and equal in dignity and rights and to discourage and eliminate discrimination.

These objects are derived from the Universal Declaration of Human Rights adopted by the general assembly of the United Nations in 1948.

One of the ways these goals are pursued is through the protection of certain human rights by law. Under *The Saskatchewan Human Rights Code*, protected rights fall into two categories — fundamental freedoms and quality rights.

Fundamental Freedoms:

- freedom of conscience
- freedom of religion
- freedom of expression
- freedom of association
- the right to vote in provincial elections

Equality Rights:
There must be no discrimination in housing, employment, public services, education, contracts and publications on the basis of:

- race or color
- creed or religion
- nationality, ancestry or place of origin
- sex (including sexual harassment)
- marital status
- disability
- age

The Code gives the Saskatchewan Human Rights Commission the authority to:

- investigate and settle complaints of discrimination
- to carry complaints before boards of inquiry
- to approve or order affirmative action programs
- to grant exemptions from certain provisions of the *Code*
- to make regulations subject to the approval of the Lieutenant Governor in Council
- to carry out research and education programs that will advance the principles of equality and eliminate discriminatory practices.

INVESTIGATIONS

A person who believes he or she has been discriminated against contrary to the provisions of *The Saskatchewan Human Rights Code* may complain to the Commission. A third party or the Commission itself may also initiate a complaint.

The staff of the investigations unit is responsible for receiving and investigating complaints. The first step in an investigation is an initial inquiry to determine if the complaint falls within the jurisdiction of the *Code* and if reasonable grounds exist to believe the *Code* was violated.

If those standards are met, a complete investigation will be conducted to determine if there is enough evidence to support the complaint. Staff in the investigations unit have the authority to interview people who may have information about a complaint. They can also examine relevant records and documents, including employee records.

If the investigation does not substantiate the allegation, the complaint is dismissed. Where the evidence gathered by the investigations unit does support the claim, an attempt is made to negotiate a settlement between the parties.

If a settlement cannot be negotiated, the matter is referred to the Commissioners who may then direct that a board of inquiry be appointed. Boards of inquiry are independent tribunals appointed by the Minister of Justice, to hear evidence into the complaint.

Categories of Complaints

In 1990, more than 4,600 intake calls came into the Commissions's two offices; 265 complaint files were opened as a result of those calls, an increase of nine percent over the previous year.

Also under investigation during 1990 were 106 files that were carried forward from 1989, putting the total number of files under investigation during 1990 at 371.

At the end of 1990, 110 files were under active investigation. Only nine of those files were carried forward from the previous year (1989).

The Commission continues to work on reducing the average length of time it takes to investigate a complaint. Direction from the Court of Appeal has required the Commission to give sexual harassment cases priority.

After an investigation is complete, files enter the settlement process. At the end of 1990, there were 99 cases in this stage of the process, that is, cases where settlement is being negotiated, cases at the board of inquiry level or cases that have been appealed to the courts.

Two groups of cases decided by the Supreme Court in 1990 were of particular significance to human rights commissions. One cluster of cases dealt with mandatory retirement; the other with the hate literature provisions of the *Criminal Code*.

Those decisions provided clarification of the scope of human rights law on age discrimination and on published statements or symbols that expose a minority group to hatred or ridicule.

In the mandatory retirement cases, the Supreme Court determined that mandatory retirement at the age of 65 was not contrary to the Charter. While mandatory retirement is discrimination of the basis of age, the court said, it is discrimination that is justified in our society.

In the hate literature cases, two were brought to the courts under the Criminal Code (the Keegstra case and the Andrews and Smith case); the third was under human rights legislation (Taylor and the Western Guard Party).

In its decisions, the court clearly indicated that there are limits to freedom of speech. However, the court also said there are limits to human rights legislation that restricts freedom of speech so that people may be protected from discrimination.

In Saskatchewan, those limits will be assessed by the courts in the Chop Shop case which will be heard in 1991. A complaint was made to the Commission about three stickers being displayed and sold at the Chop Shop in Saskatoon. The stickers are caricatures of a Black, a Sikh, and a person of Chinese ancestry with the "not allowed" symbol drawn over each face.

In March 1990, the Commission applied to the court of Queen's Bench for an interim injunction restraining the owner of the Chop Shop from selling or displaying the stickers until the issue could be decided at trial. (See Court Decisions section for additional information.)

Statistical Breakdown

The largest category of complaints received in 1990 was sex discrimination — 26.8 percent. Half of that category were sexual harassment complaints.

The number of race discrimination complaints went up last year, from 19 percent to 25.3 percent. Sixty percent of race complaints were from Aboriginal people.

Discrimination on the basis of disability made up the next largest category of complaints, 22.6 percent. Mental disability complaints made up 13.3 percent of the total; 86.6 percent were physical disability complaints.

In 1990, as in other years, most of the complaints (49 percent) were about discrimination in the workplace. The other major area of complaints (20 percent) was about the provision of public services.

Complaints in other areas were: education 6.4 percent; housing 4.5 percent; publications, 3.8 percent; *Bill of Rights*, 3.8 percent.

Most of the complaints about discrimination on the basis of sex were workplace-related. Complaints about discrimination because of disability were for the most part workplace-related or occured in the provision of a public service. Race complaints fell into several areas — in the provision of public services, in employment, accommodation, publications and education.

For additional information, see tables of statistics at the end of the report.

SETTLEMENTS & TRIBUNALS

Settlements

If the Commission concludes, after an investigation, that evidence supports a complaint of discrimination, an attempt is made to reach a settlement between the two parties.

The terms of the settlement are intended to compensate the complainant for any damages suffered as a result of the alleged discriminatory treatment. All parties and the Commission must agree to the settlement, which is binding.

Settlements could include such terms as compensation for lost wages or other expenses, and payment for humiliation suffered and loss of self-respect. The respondent might also agree to change his or her discriminatory behavior in the future and to apologize.

In 1990, 56 settlements were negotiated. Following are examples of a few of them.

Sexual Harassment Settlement Example

A woman who complained to the Saskatchewan Human Rights Commission about sexual harassment at the Martin Luther Nursing Home in Regina has received $4,000 in a settlement agreement.

The payment of $4,000 is the highest ever made for humiliation damages in a sexual harassment complaint in Saskatchewan, either in settlement or by a board of inquiry. The maximum allowed for humiliation damages under *The Saskatchewan Human Rights Code* is $5,000.

Martin Luther Nursing Home Inc. and John Wettstein, manager of the nursing home, agreed to the settlement without admission of liability.

Connie Born of Regina worked at the nursing home as a resident attendant from September 1986 to November 1988. In her complaint to the Commission in July 1988, she alleged that on several occasions Wettstein requested sexual favors and used physical force in an attempt to get her to comply. Born said on one occasion, after she refused him, he threatened to put her on the night shift.

Settlements provide compensation for injuries the complainant alleges he or she suffered. In human rights complaints, the complainant might be compensated for actual monetary losses and may receive a sum of money as a form of redress for humiliation suffered. The only damages alleged by Born were for humiliation and loss of self-respect.

Race Settlement Example

A young man who alleged he was denied a job at the King George Hotel in Saskatoon because he is Indian has been paid $1,750 by the hotel in settlement of his complaint.

George Epp told the Commission he applied for a summer job as a parking lot attendant at the King George Hotel in July 1988, when he was 18 years old. The hotel's general manager, Al Blevins, told him the job had already been filled. But, Epp told the Commission, before he left the hotel he noticed another young person, who was white, apply for the same job and he was granted an interview. That person was subsequently hired.

Donbers Ltd., the Alberta corporation that owns the hotel, agreed as an additional term of settlement to adopt a workplace policy specifying all hiring decisions are to be made on the basis of merit and business necessity. The policy will be distributed to those doing the hiring at the King George Hotel.

Marital Status Settlement Example

Directors of the Mennoniten Alten Heim nursing home in Warman have agreed that when hiring in the future they will not discriminate against people who are divorced.

Mary Anne Thiessen of Warman complained to the Commission that an offer of employment at the Alten Heim Nursing Home was withdrawn after administrator Norman Wiens discovered she was divorced. The job applied for was that of kitchen helper.

The terms of settlement, agreed to by all parties, included payment of compensation of $2,173 to Thiessen and agreement by the corporation's board of directors to adopt a policy of non-discrimination in hiring.

The Saskatchewan Human Rights Code provides protection from discrimination on the basis of marital status, which includes those who are divorced.

Disability Settlement Example

St. Volodymyr Villa Corporation agreed to pay $1,000 to a women it evicted because her daughter had cerebral palsy. Anne Leard and her daughter, Valerie, had been in St. Volodymyr Villa in Saskatoon, for less than a month when they were asked to leave their suite because, in the eyes of staff, Valerie was not a suitable tenant.

St. Volodymyr Villa was designed as a senior citizens' residence, but in some circumstances younger people are admitted. All tenants must be able to live independently.

Management at St. Volodymyr Villa admitted they had asked Anne Leard and her daughter Valerie to leave, but said they did so because they believed Valerie's disability was so severe she did not fit within their definition of "independent living."

Management also expressed a concern that Valerie's presence in the dining room at St. Volodymyr Villa would disturb the other tenants, and that her presence in the senior citizen's complex created a nursing home atmosphere that was at variance with the home's emphasis on independent living.

However, evidence showed Valerie Leard was able to live independently with the assistance of her mother and home care services and they were not at any time asking St. Volodymyr Villa to supply them with services over and above those provided to other tenants.

At the time of the settlement, Chief Commissioner, Theresa Holizki noted: "It is particularly dismaying to find that appearance might be used as a reason for denial of services that are available to everyone else. People who are disabled have a right to live outside a special care home to the extent that they are able to do so. To deny someone that right because others might find their presence upsetting or depressing, promotes the worst biases against people with disabilities."

The corporation said it regretted the manner in which the matter was handled and apologized to the Leards for the distress and embarrassment that resulted.

Sex Discrimination Settlement Example

Canada Packers paid $4,450 to settle a complaint of discrimination on the basis of pregnancy made by one of their employees.

Susan Horsnall of Moose Jaw alleged she had been denied sick leave benefits by Canada Packers because her illness was pregnancy-related. Canada Packers had categorized her absence as unpaid maternity leave rather than sick leave. Canada Packers agreed to pay Horsnall $4,060 in lieu of 14 weeks of sick benefits owning to her, and to pay $390 in interest on that amount.

Canada Packers also agreed that in the future it will not require a pregnant woman with a pregnancy-related illness to be on unpaid maternity leave if she is entitled to benefits under the company's sick leave plan.

Age Settlement Example

Four young people who were refused a room at the Sheraton Cavalier Hotel in Saskatoon because they were "too young" have received an apology from the hotel and compensation of $105.

The four young people from Regina, who were 18 and 19 years old at the time, were in Saskatoon for the Jeux Canada Games in the summer of 1989. Chris Dodson, one of the four, told the Commission that although a reservation had been made, when they arrived at the hotel they were told someone in their party would have to be 21 in order to register.

Discrimination on the basis of age (between 18 and 65 years) in the provision of a public service, such as rental of a hotel room, is contrary to *The Saskatchewan Human Rights Code*.

Cavalier Enterprises Ltd., owner of the hotel, told the Commission it does not have a policy of denying admission to young people between the ages of 18 and 21 and that an "unfortunate mistake" had been made in denying accommodation to the group. Cavalier Enterprises apologized to the four and agreed to compensate them in an amount that would allow them to rent a room at a hotel of their choice in Regina with similar amenities to those which would have been available to them at the Sheraton Cavalier.

Boards of Inquiry

If the parties involved in a complaint can't negotiate a settlement, the Commission will ask the Minister of Justice to appoint a board of inquiry. A board, which is independent of the Commission, will consist of one or more persons. Its function is to hear evidence from the parties and to decide, on the basis of that evidence, whether the Code has been violated. If a violation has taken place, the board determines what damages should be awarded.

Six boards of inquiry were conducted in 1990, with decisions handed down for two of them. Another board was concluded with a consent order. Decisions were also handed down for three boards conducted in 1989. Those three boards dealt with four complaints. One board held in 1988 is not yet completed; a decision has yet to be handed down. That board dealt with four complaints.

Friesen v. The Regina Board of Police Commissioners et al

When Greg Friesen applied to be a police officer, he was told his disabled left hand would prevent him from adequately doing the job. But evidence heard by a board of inquiry adjudicating his human rights complaint showed that wasn't the case.

In a decision handed down August 17, the board said the police recruiting officer, Staff Sergeant N.G. Marchinko, discriminated against Friesen on the basis of a physical disability.

Friesen had suffered permanent injury to his left hand after an accident with a table saw in 1980. As a result, some finger joints were fused, resulting in a loss of flexibility.

Friesen applied for admission to the Regina force in 1985, and was accepted as a suitable candidate for the detailed selection process. Six months later, half-way through the selection process, Marchinko became aware of Friesen's disability.

Marchinko then decided to conduct an on-the-spot test of Friesen's dexterity. He handed Friesen a service revolver by the barrel and told him to take it with his left hand. Marchinko reported that Friesen was not able to get the revolver in a firing position without the assistance of his right hand.

However, at the board of inquiry hearing, a firearms expert testified that the dexterity test conducted by Marchinko would not be a fair test of a person's abilities with a handgun. He also testified he was satisfied Friesen could properly fire a revolver with his left hand.

Warren Sproule, the one-person board, said in his decision that a test to determine whether a person can perform the duties required for employment "must be reasonable and objective and demonstrate that the person being tested cannot perform the task required. More simply put, Mr. Friesen was entitled, not just to a test, but to a fair test."

Friesen had also asked for substantial damages for loss of a chance of employment, but the board rejected those arguments, saying that even if Friesen had been given a proper test of his physical abilities, it was not satisfied that he would have been successful in other parts of the selection process.

Peters v. Giannakos

A woman who was denied service at a Saskatoon restaurant because she was accompanied by a seeing eye dog has been awarded $250 in compensation by a board of inquiry.

In a decision dated May 15, Saskatoon lawyer A.Q. Agnew, who acted as the one-person board, said service was denied to Yvonne Peters by Alex Giannakos, owner and manager of the Family Restaurant, at that time located in the Senator Hotel. The restaurant has since ceased operations.

It is discrimination under *The Saskatchewan Human Rights Code* to deny a blind person entry to a restaurant or any other public place because he or she is accompanied by a seeing eye dog.

Haugen v. GCK Holding Ltd.

In a consent order agreed to by all parties appearing before a board of inquiry on March 2, GCK Holdings acknowledged that it had contravened *The Saskatchewan Human Rights Code* by expressing a preference for employees in a particular age group.

GCK Holdings, holder of the Nut Man franchise in Saskatoon, agreed to pay Lorne Haugen $150 and to apologize to him for the affront to his self-esteem after he was told that the company preferred to hire salespeople between the ages of 25 and 35. Haugen was 47 when he applied for the job.

GCK Holdings noted in the consent order that its contravention of the Code was inadvertent and agreed not to

discriminate on the basis of age in the future.

Section 19 of the *Code* states that an employer shall not express, either directly or indirectly, a preference or an intention to discriminate on the basis of any of the protected categories, one of which is age.

Lamers v. Pacific Building Maintenance

A board of inquiry met in Saskatoon November 15 to hear evidence into a complaint of sexual harassment made by Maureen Lamers of Saskatoon against Pacific Building Maintenance Ltd.

Lamers alleged she was fired by her supervisor because she objected to comments he had made to her that were of a sexual nature.

Saskatoon lawyer Anthony Boryski acted as the one-person board. Decision was reserved.

Zorn and Deptuch v. Frontenac Apartments

A board of inquiry met in Regina June 18 to hear evidence into a complaint of discrimination made by Brian Deptuch and Linda Zorn against Frontenac Apartments in Regina.

Deptuch and Zorn alleged they were discriminated against on the basis of marital status, saying they were refused an apartment by Frontenac Apartments because they were living in a common-law relationship.

Regina lawyer Pauline Duncan acted as the one-person board of inquiry. She reserved decision.

Nguyen v. Pacific Building Maintenance Ltd.

A board of inquiry met in Saskatoon September 24 to hear evidence into a complaint of discrimination made by Phung Thi Nguyen against Pacific Building Maintenance Ltd.

Nguyen alleged she was laid off from her job as a cleaner with Pacific Building Maintenance because she was pregnant.

Saskatoon lawyer Randy Katzman acted as the one-person board of inquiry. Decision was reserved.

McDougall v. STC

Lyall McDougall has perfect vision — with his glasses on. But that isn't good enough to get him a job as a bus driver at STC (Saskatchewan Transportation Company).

In a decision dated October 12, a board of inquiry determined that the Prince Albert office of STC did not violate human rights law when it refused to hire McDougall because his vision was limited when he wasn't wearing his glasses.

The question considered by the board was whether McDougall's disability — limited vision without his glasses — prevented him from driving a bus safely. The board of inquiry was held in February, 1989.

Lawyer Kristian Eggum of Prince Albert, the one-person board, said in his decision that the standard of vision imposed by STC for bus drivers was reasonable, or in the terminology of human rights legislation, it was a "reasonable occupational qualification." If a particular physical ability — such as a certain standard of vision — is necessary to do a job safely, it is called a reasonable occupational qualification and an employer may refuse to hire those who do not meet that standard.

In June 1986, McDougall filed a complaint with the Saskatchewan Human Rights Commission, saying he had been discriminated against because of a disability — uncorrected vision that was 20/400 in each eye. Evidence brought before the board indicated that a person who has 20/400 vision can see "very, very poorly, if at all, without the assistance of glasses."

The Commission and STC agreed that STC has a responsibility to maintain a high level of safety. But, the Commission argued, if a bus driver's vision can be corrected so that it is 20/20, the risk to public safety is negligible.

STC argued that a driver whose uncorrected vision was 20/400 would be a hazard on the road if he lost his glasses or was in an accident or an altercation with a passenger which might cause the glasses to be dislodged.

The Commission said even those negligible risks could be reduced by requiring the driver to either carry a spare set of glasses or to wear a strap on his glasses to ensure they would not become dislodged.

However, the board said the safety standard imposed by STC was reasonably necessary for the reduction of risk to its passengers and property. "The safety of the general public is of paramount importance," the board said, in dismissing the case.

Louise Welen v. Gladmer Developments

A board of inquiry has determined that lack of facility in English was not the reason Kim and Chanly Panthachith were denied rental accommodation by Gladmer Developments Ltd. in Saskatoon.

A complaint had been brought to the Commission by Louise Welen, program co-ordinator of the Open Door Society, an organization which assists new immigrants to Canada.

She alleged that in July 1987 the Panthachiths were discriminated against on the basis of nationality and place of origin when they were told that their lack of English skills meant there was not as good a chance they would be accepted as tenants at the Gladmer Park rental development. The board of inquiry was held in November 1989.

The one-person board, Wayne Bernakevitch, agreed that statements had been made by the office manager which made it appear that Gladmer Developments did have a policy in place that required facility in English as a condition of tenancy. But there was also evidence to indicate that Gladmer Developments went "to great lengths to accommodate non-English speaking persons or persons unable to communicate for other reasons," Bernakevitch said in his decision handed down January 17, 1990. "Gladmer's past record is impeccable and there is nothing to indicate that Gladmer was anything but reasonable in dealing with the Panthachiths."

The decision stated further: "the complaint originated from a situation where two well-meaning and well-intentioned people, Ms. Welen and Mrs. Neudorf (office manager for Gladmer Developments), misunderstood and/or miscommunicated with each other through no intentional fault of either."

Canning and McConnell v. MacMillan Bloedal (Saskatchewan) Ltd.

A board of inquiry ordered MacMillan Bloedel (Saskatchewan) Ltd. to implement an affirmative action plan, the first time such an order has been made in Saskatchewan.

In a decision handed down June 20, the board of inquiry noted that although a MacMillan Bloedel Plant at Hudson Bay has over 120 production employees, none of them are women.

The three-person board, which is independent of the Commission and appointed by the Minister of Justice, made the finding after hearing evidence into a complaint of discrimination against MacMillan Bloedel.

Two women, Myrna McConnell of Nipawin and Gloria Canning of Hudson Bay, complained to the Saskatchewan Human Rights Commission that they were not re-hired in October 1984 when a number of men with the same or less seniority were re-hired.

After hearing evidence in October 1988 and January 1989, the board made an order that compensated the two individuals who complained. In addition, it ordered an affirmative action program that will assist women who apply to MacMillan Bloedel in the future for employment.

In dealing with the individual complainants, the board found there had been discrimination on the basis of sex, and ordered MacMillan Bloedel to pay McConnell and Canning $1,000 each for loss of self-respect and to also compensate them for lost wages during the period of time the company refused to hire them.

For Canning, the period of time for which she will be compensated is from October 1, 1984 up to whatever date in the future she is offered employment at the plant. McConnell was awarded damages for the period of time from October 1, 1984 to September 1, 1985, when she was no longer available to return to her former employment at MacMillan Bloedel.

The actual amount of compensation will be determined either by negotiations between the Saskatchewan Human Rights Commission and MacMillan Bloedel or by a further order of the board. Chief Commissioner Theresa Holizki said she anticipates that, in total, compensation for lost wages will exceed $100,000.

Both women had worked at MacMillan Bloedel's wafer board production plant in Hudson Bay for approximately six years before they were laid off in December 1981 with other employees, both men and women.

When substantial rehiring was done in 1984, a decision was made to give first chance to the best qualified former employees who had previously been laid off, the board said. Based on numbers of men and women previously employed,

it was reasonable to expect that four of the 18 rehired would be women.

Instead, no women were rehired, even though "in some instances, it is clear that the women rejected would have had superior employment records and skills than the (men) hired," the board concluded.

Lariviere et al v. Nickel Hotel Ltd.

Four women who complained about sexual harassment at their workplace will be able to continue proceedings against the company which employed them but not against the individual who allegedly did the harassing.

The four women appeared before a board of inquiry in April 1988, alleging that their former employer sexually harassed them physically and verbally when they were employed as waitresses at the Nickel Hotel.

The employer argued that the length of time which had elapsed between filing the complaint and establishing the board violated rights guaranteed by the *Charter of Rights and Freedoms*. The complaints were filed with the commission in 1985 and 1986.

The one-person board, Kenneth Cornea of Moose Jaw, adjourned the hearing so that he could consider the *Charter* issue. In June, 1990, Cornea determined that action could not proceed against the individual respondent but could proceed against the corporate entity.

The Commission is now waiting for the board to reconvene so that it may proceed with the complaints against Nickel Hotel.

Court Decisions

Decisions of a board of inquiry may be appealed to the courts by any party to a complaint. In 1990, only one appeal case was before the courts and that decision was handed down in July. Another case was before the courts on an application for an injunction.

Saskatchewan Human Rights Commission v. Eugene Bell

The Saskatchewan Human Rights Commission applied for an injunction to the court of Queen's Bench in March, asking that Eugene Bell be restrained from selling or displaying racist stickers.

Bell had been selling the stickers in his Saskatoon store, the Chop Shop. The stickers are caricatures of a black person, a Sikh person, and a person of Chinese ancestry, with the "not allowed" symbol drawn over their faces.

The Commission also applied for an interim injunction; that application was heard on April 5. At that time, Bell voluntarily gave an undertaking to the court that he would not sell or display the stickers until there was a determination of the issue at trial.

The impetus for the Commission's action was a complaint it received about the stickers from the Saskatoon Multicultural Council. The usual process, after investigation and if settlement cannot be reached, is to proceed to a board of inquiry. But in this instance, the Commission determined it was important to stop sale of the stickers immediately.

Rather than proceed with a board of inquiry, the Commission applied to the courts for an injunction, a process designed to achieve a speedy short-term resolution (an interim injunction) that binds the parties until there can be a final determination of the matter. The trial will be held in 1991.

Heidt v. City of Saskatoon and the Civic Employees Union

The Saskatchewan Court of Appeal has determined that the City of Saskatoon's sick leave bank for employees is discriminatory.

In a decision handed down July 12, the appeal court said former city employee James Heidt had been denied sick

leave benefits to which younger employees were entitled and that was a violation of The Saskatchewan Human Rights Code.

Sometimes employee insurance plans have to make distinctions based to on age so the plans will operate effectively. But, the Court of Appeal said, where distinctions based on age exist, there is an onus on the employer to show they are reasonably necessary for the operation of a viable, cost-effective insurance scheme. The City did not meet that onus, said the court.

The case has been referred back to the original board for a determination of damages.

Heidt had been employed by the City of Saskatoon for 16 years as a seasonal employee when he fell ill with cancer. He received benefits under the employer's Sick Leave Bank, but was cut off after three years because he was then over the age of 55. He died from his illness in 1990.

The impact of the cut-off of age was particularly significant for Heidt — permanent employees are eligible to receive a pension at the age of 55; seasonal employees or not. Heidt complained to the Commission in 1987 that he was being discriminated against because of his age.

All parties agreed that the terms of the City's Sick Leave Bank made distinctions on the basis of age. The *Code* says that's allowed, if the plan is "bona fide." The City argued its plan was "bona fide" because it was set up honestly and in good faith. The Court of Appeal disagreed.

In a two-to-one ruling, the Court of Appeal said it was not good enough for the City to say the plan as a whole was "bona fide" because they set it up with good intentions. Instead, the City had to show that the actual operation of the plan was "bona fide."

The purpose of the exemption set out in the *Code*, said the court, is to permit plans to take into account the effect of age on the relationship between benefits on the one hand and costs on the other hand. "The exemption recognized that, in some circumstances, discrimination on account of age will be necessary in order to create a viable and cost-effective plan because the cost of benefits to older workers are higher than for other workers," Mr. Justice Sherstobitoff said in his judgment. But the city did not show that the plan's distinctions based on age were reasonably necessary, he said. The city asked the Supreme Court of Canada for leave to appeal but that application was denied.

AFFIRMATIVE ACTION

Affirmative action is designed to fight discrimination in the workplace and in schools.

It is a response to a kind of discrimination that is particularly hard to eliminate because it has become part of the way society is structured. That kind of discrimination is called systemic discrimination.

In Saskatchewan, affirmative action programs are developed in conjunction with the Saskatchewan Human Rights Commission, and upon completion, are approved by the Commission.

Affirmative action is a commitment to alter the policies, practises and procedures of institutions so that members of the target groups (those under-represented in the workplace and educational institutions) have an equal opportunity to succeed. In Saskatchewan, the target groups are women, people of Indian ancestry, and people with physical disabilities.

Affirmative action is based on the belief that some groups have historically been disadvantaged in the workplace and in educational institutions and the effects of those discriminatory practices are being felt today. It is anticipated that affirmative action programs will help to redress imbalances that continue to exist in the workplace and in schools.

The Saskatchewan Human Rights Code provides four ways to implement affirmative action programs:

1. The Commission may approve a voluntary program (Section 47);

2. The Commission may order that a program be put into place (Section 47);

3. A board of inquiry may order a program as a remedy where there is evidence of discrimination [Section 31 (7) (a)];

4. An affirmative action program may be introduced in settlement of a complaint.

Approval of a program provides the applicant with legal protection for any preferential measures which may be undertaken. With the proclamation of Section 15 (2) of The Canadian Charter of Rights and Freedoms, on April 17, 1985, additional constitutional protection for affirmative action programs came into place.

Employment and Training Programs

In 1990, a human rights board of inquiry ordered an employer to implement an affirmative action plan, the first time such an order has been made in Saskatchewan.

The order stemmed from a complaint of discrimination made against MacMillan Bloedel (Saskatchewan) Ltd. by two former employees in its Hudson Bay production plant.

The board said MacMillan Bloedel had discriminated against the women when it was in the process of re-hiring. A few years earlier, a number of employees had been laid off, both men and women. But when the company started re-hiring in 1984, only men were re-hired, even though some of the women had more seniority.

In a decision handed down in June 1990, the board compensated the two individuals who complained and in addition, ordered an affirmative action program to assist women who apply for employment to MacMillan Bloedel. That plan is to be developed in consultation with the Saskatchewan Human Rights Commission.

The only other time an affirmative action program has been ordered by a human rights tribunal in Canada, it also addressed the problems faced by women in non-traditional jobs. In that case, Canadian National Railways was ordered to put more women in non-traditional jobs in the St. Lawrence Region. That board decision was appealed and eventually reaffirmed by the Supreme Court of Canada in 1987.

In that case, referred to as *Action Travail v. CNR*, it was noted that an affirmative action program would assist women who wanted to move into blue-collar occupations. "It (an affirmative action plan) is necessarily preventing future acts of discrimination because the presence of women will help break down generally the notion that such work is man's work and more specifically, will help change the practices within that workplace which resulted in the past discrimination against women," the court said.

Chief Commissioner of the Saskatchewan Human Rights Commission, Theresa Holizki, noted that an affirmative action program for MacMillan Bloedel would have the same effect. "An affirmative action program will help to break down the continuing cycle of systemic discrimination that has been directed against women. We anticipate future female applicants will not face the same barriers.

"Clearly, the board recognized that sometimes affirmative action is the best way to fight discrimination in the workplace, particularly where the problem is one of systemic discrimination."

The term systemic discrimination is used to describe inequities that have been built into a system and which have been there for so long they are now almost impossible to see directly. One example of systemic discrimination is the belief that some jobs are women's jobs and some jobs are men's jobs.

"Systemic discrimination is very difficult to eliminate and responds particularly well to affirmative action. Women in non-traditional jobs often have a particularly difficult time, as was illustrated in this situation," Holizki said.

One new voluntary plan was approved by the Commission during 1990. It was developed by Working for Women, an organization which provides pre-employment services for women. Their plan illustrates that affirmative action can also benefit the smaller employer — Working for Women has a staff of 10.

At the end of 1990 there were 11 employment plans and six plans in training institutions.

The majority of employers with approved programs continue to be in the public sector, including municipal governments, the provincial government and crown corporations. Saskatchewan's private sector, with a few notable exceptions, has not adopted affirmative action as a strategy.

For a list of affirmative action plans currently in effect in Saskatchewan, please see chart at the end of this section.

Affirmative action has also been developed by training institutions at the post-secondary level. The purpose of these programs is to give the target groups a better chance to acquire the qualifications they need to put them on an equal footing in the workplace with the mainstream.

Several plans in training institutions are specifically designed to increase the opportunities available to Aboriginal people, whose participation in post-secondary education has been extremely limited in the past. Among these are the Nortep and Suntep programs, which provide teaching degree programs for Indian and Metis teachers.

Perhaps the most comprehensive post-secondary program is that of SIAST, the Saskatchewan Institute of Applied Science and Technology. Its program includes the three target groups — women, Aboriginal people and people with disabilities. All campuses participate in the program.

Another training institution — the University of Saskatchewan's School of Nursing — was in the process of developing a plan during 1990. It is anticipated their plan will be approved in 1991.

Monitoring

In addition to approving affirmative action programs, the Saskatchewan Human Rights Commission is responsible for monitoring programs that have been approved.

Monitoring is carried out through a review of written reports and through hearings. At the 1990 hearings in Regina, a number of community groups and individuals actively participated, providing both positive and negative comments on the affirmative action activities of employers and training institutions.

Employers reported that there has been little increase in the employment of target group members. Many said they were experiencing low turnover rates and, in some instances, reducing staff.

The Commission's response was that even in those circumstances, affirmative action employers can be working to ensure that target group members are able to obtain a fair share of the positions that are available. Employers should also be ensuring that their employment systems are non-discriminatory and, in addition, should be developing support programs.

For the first time, organizations representing persons with mental disabilities attended the hearings. In 1989, *The Saskatchewan Human Rights Code* was amended to include mental disability as a protected characteristic. As a result, the Commission expanded its list of target groups for the province's affirmative action programs, adding people with mental disabilities to the already existing target group members.

Education Equity

For the first time since approving its first Education Equity plan in 1986, the Commission held hearings to monitor the progress of the participating boards and concluded that Education Equity is having an impact on the school environment and on the success of Aboriginal students.

The 19 school boards with Education Equity plans reported on their progress at the monitoring hearings held in March and April in Regina, Saskatoon and Prince Albert. All boards received approval for their initiatives.

Education Equity is a special program designed to ensure equal participation in the school system for Aboriginal students. Its goal is to reduce the number of Aboriginal children who drop out of school before they have completed Grade 12.

All of the plans contain five components:
- ensuring school policies and procedures are not biased
- cross-cultural training
- participation of aboriginal parents
- hiring of aboriginal teachers
- ensuring curriculum is relevant to aboriginal students

The 19 boards with Education Equity plans have a total enrolment of approximately 74,600 students, which is 36 percent of the Saskatchewan school population.

At the monitoring hearings, school boards reported they have made progress in the implementation of their plans, with some divisions adopting creative and innovative measures in each of the five components set out above.

There were also reports of difficulties having been encountered. A major purpose of the monitoring process is to assist boards in identifying measures that have worked successfully for other boards. In that way, all boards can build on the success of others.

AFFIRMATIVE ACTION PROGRAMS

Employment	*Approval Date*
Saskatchewan Human Rights Commission	January 16, 1980
Saskatchewan Telecommunications	October 29, 1982
Saskatchewan Government Insurance Corporation	February 16, 1984
Westbridge Computer Corporation	December 19, 1984
The Co-operators	August 15, 1985
City of Regina	February 10, 1987
City of Saskatoon	February 10, 1987
Government of Saskatchewan (out-of-scope)	June 16, 1987
Government of Saskatchewan (SGEU)	November 16, 1988
Government of Saskatchewan (CUPE)	July 6, 1989
Working for Women	October 23, 1990

Training and Education	*Approval Date*
Gabriel Dumont Institute of Native Studies and Applied Research Saskatchewan Urban Native Teacher Education Program (SUNTEP)	August 5, 1980
Northern Teacher Education Program (NORTEP)	September 21, 1981
Gabriel Dumont Institute of Native Studies and Applied Research (Preparatory, Technical & University Programs)	September 16, 1983
Saskatchewan Institute of Applied Arts and Science (all campuses)	April 4, 1986
University of Saskatchewan, College of Arts and Sciences	February 23, 1988
Saskatchewan Institute of Applied Arts and Sciences, Technologies, Native Services Division	July 27, 1988

Education Equity	*Approval Date*
Saskatoon Catholic School Division No. 20	May 12, 198
Indian Head School Division No. 19	June 30, 1987
Meadow Lake School Division No. 66	August 18, 1987
Northern Lakes School Division No. 64	August 18, 1987
Saskatoon Public School Division No. 13	August 18, 1987
Prince Albert Public School Division No. 3	September 8, 1987
Regina Catholic School Division No. 81	October 29, 1987
Wilkie School Division No. 59	December 8, 1987
Biggar School Division No. 50	December 8, 1987
North Battleford School Division No. 16	January 12, 1988
Cupar School Division No. 28	January 12, 1988
Prince Albert Comprehensive High School Board	January 12, 1988
Wadena School Division No. 46	May 18, 1988
Northern Lights School Division No. 113	September 9, 1988
North Battleford School Division No. 103	September 21, 1988
Balcarres School Division No. 87	September 21, 1988
Broadview School Division No. 18	November 16, 1988
Kamsack School Division No. 35	January 10, 1989
Prince Albert Catholic School Division No. 6	February 16, 1989

EDUCATION ACTIVITIES

It is the responsibility of the Saskatchewan Human Rights Commission to further equality and the recognition of human rights through research and education programs. Under Section 25 of the *Code* the Commission has a duty to:

a) Forward the principle that every person is free and equal in dignity and rights without regard to his race, creed, religion, colour, sex, marital status, disability, age, nationality, ancestry or place of origin;

b) Promote an understanding and acceptance of, and compliance with, the *Code*;

c) Develop and conduct educational programs designed to eliminate discriminatory practices related to race, creed, religion, colour, sex, marital status, physical disability, age, nationality, ancestry or place of origin;

d) Disseminate information and promote understanding of the legal rights of residents of the province and conduct educational programs in that respect;

e) Further the principle of equality of opportunities for persons, and equality in the exercise of the legal rights of persons, regardless of their status;

f) Conduct and encourage research by persons and associations actively engaged in the field of promoting human rights;

e) Forward the principle of cultural diversities as a basic human right and fundamental human value.

The Commission's Public and Special Programs Unit meets its mandate by providing information about human rights issues, about *The Saskatchewan Human Rights Code*, and about the activities of the Commission. Information is provided to the public through printed material such as newsletters and pamphlets; through speaking engagements at meetings, conferences and workshops; and through contacts with the media.

Activities in 1990

In 1990, staff at the Regina and Saskatoon offices provided information about human rights through 76 educationals conducted at public meetings, schools, businesses and agencies. Staff also participated in 10 workshops and conferences, nine displays, and attended 46 public meetings.

The executive director and commissioners also fulfill a public education function, last year participating in 78 meetings and conferences. In addition they gave speeches at 18 functions.

A major event planned and organized by the Saskatchewan Commission, in conjunction with the Canadian Human Rights Commission, was a public meeting in recognition of the United Nations International Covenant for the Elimination of Racial Discrimination on March 22 in Regina. Speakers were Oliver Brass, who was then president of the Saskatchewan Federated Indian College; Don Worme, legal counsel for the National Committee on Justice, Assembly of First Nations; and Nayyar Javed, president of Immigrant Women of Saskatchewan.

An initiative was made in 1990 to take the Commission to centres outside of Saskatoon and Regina, where the Commission has been well established for a number of years. Public meetings were held in North Battleford and Yorkton, providing residents of those areas with the opportunity to learn more about the work of the Commission, and in addition, to express their views to Commissioners about human rights issues. This type of outreach will continue.

The Public and Special Programs Unit also organized public monitoring hearings to allow for an open review of approved affirmative action programs. Education Equity plans were monitored for the first time in 1990, with hearings in Prince Albert, Saskatoon and Regina in March and April. Affirmative action plans for the workplace and post-secondary training institutions were held in Regina in June.

The Commission also provides information to the public through the media. Last year Commissioners and staff had 248 personal contacts with the media, many resulting in news reports in the province's newspapers and on radio and television. The Commission also issued a number of news releases and held two news conferences.

Four newsletters were produced in 1990, two pamphlets were revised, and two pamphlets were issued in French. Information was provided to the media about International

Human Rights Day on December 10 and about the Day for the Elimination of Racial Discrimination on March 21.

Another aspect of the education role of the Commission is providing information about the *Code* and other human rights issues to the hundreds of inquiries received by telephone, mail, and from visitors to the offices. In addition, thousands of pamphlets explaining the Code are provided to members of the public each year.

Information about human rights issues is also provided in the form of videos, which are available on a loan basis. Commission videos were loaned out more than 100 times during 1990.

EXEMPTIONS

Section 48 of *The Saskatchewan Human Rights Code* allows for an exemption from any provision of the *Code* "where any person or class of persons is entitled to an exemption ... under any provision of this Act" or where the Commission "considers (an exemption) necessary and advisable."

In 1990 the Commission received 16 exemption applications: 12 of the applications were granted, one was denied, one was withdrawn and two are being reviewed.

Exemptions in 1990 were granted from section 12 (public services), section 13 (education), section 16 (employment) and section 19 (pre-employment advertisements, job applications and job interviews).

Applicant/Description of Application	*Approval Date*
ANGUS CAMPBELL CENTRE Requested exemption to consider gender when hiring attendants at detoxification centre	Denied
SOUTH SASKATCHEWAN HOSPITAL CENTRE Allows applicant to hire an Aboriginal person for social work position	February 8, 1990
REGIONAL EMPLOYMENT DEVELOPMENT PROGRAM Restrict service of a Native Outreach Project to Aboriginal people and to give preference to hiring Aboriginal people	April 2, 1990
WEST SIDE COMMUNITY CLINIC Requested exemption to hire a person of Aboriginal ancestry for a nursing position	Withdrawn
WOMEN'S RENOVATION COMPANY LTD. Applicant can restrict participants in training program to women only	March 20, 1990
DEVELCON ELECTRONICS INC. Employer can ask job applicants about their race, sex or disability. Information is to be used to develop affirmative action plan	March 5, 1990
RESIDENTS COUNCIL, PALLISER REGIONAL CARE CENTER Applicant can restrict certain attendant positions to persons of same gender as residents being served	Under review
MACKLIN AND DISTRICT MUSEUM Heritage museum can not be made fully accessible to people with physical disabilities	July 3, 1990
READ CANADA Applicant granted short-term order allowing preference to be given when hiring Aboriginal people	June 11, 1990 (Expired August 31, 1990)
NEW DAWN VALLEY CENTRE INC. Applicant can give preference in hiring to Aboriginal people	August 23, 1990
WISE OWL DAY CARE INC. Applicant can give preference to male when filling one child-care worker position	July 9, 1990
DUCK LAKE HISTORICAL MUSEUM SOCIETY Exemption allows portion of a museum facility to be inaccessible	October 26, 1990
JOHN HOWARD SOCIETY Applicant can restrict position of Native Liason/Drug and Alcohol Counsellor to Aboriginal people	October 23, 1990
S.I.A.S.T. LIFE SKILLS Applicant can give preference to Aboriginal people when hiring coach for Native Life Skills course	Under review
MAGGIE'S TEEN CHILDCARE CENTRE Services can be restricted to teen parents 20 years of age and younger	December 12, 1990
COLLEGE OF ARTS AND SCIENCE, UNIVERSITY OF SASKATCHEWAN Applicant can restrict participation in two practicum courses of a Native Justice Program to Aboriginal people	December 12, 1990

ACCESSIBILITY

The *Code* provides that physically disabled people have the same right as others to receive services and to have access to public buildings

Architectural barriers often mean that people with certain kinds of disabilities, those who are wheelchair reliant, for example, can not get into public buildings and therefore do not have access to services that are offered there.

Lack of accessibility to public buildings and public services is a violation of *The Saskatchewan Human Rights Code*. The standards which public buildings and facilities may be required to meet if a complaint is brought against them are set out in Accessibility Standards Guidelines developed by the Commission in 1980 and revised in 1985, 1988 and 1989. (Copies of the Accessibility Standards Guidelines are available upon request.)

Over the past few years, we have come to a better understanding of what accessibility means in the context of human rights law. A well-knows Saskatchewan case, *Huck v. Canadian Odeon Theatres Ltd.*, recognized that when people with disabilities are provided with a public service, the level of service they receive must be the same as for those who are not disabled.

The Commission argued on behalf of Michael Huck that patrons who are wheelchair reliant have the same right as those who are not disabled to a choice of seats when viewing a movie. The theatre was ordered by the court to construct a reasonable number of wheelchair stalls so that a choice of seating would be available for those who are wheelchair reliant.

The law and the courts have recognized that it may not always be possible to provide absolute equality of service in all situations. The provider of a public service would not be required to make renovations if the cost of doing so would cause undue hardship.

Accessibility also includes the right of those using wheelchair stalls to sit with family and friends who are not wheelchair reliant. A settlement made in 1990 by the Commission and the Regina Exhibition Association addressed this particular issue.

As the result of the settlement, patrons at the Regina Agridome who are wheelchair reliant are now able to reserve seats adjacent to their companions.

The Agridome recognized the difficulty their physical layout imposed when people who were wheelchair reliant wanted to sit beside those in regular seating. The Agridome had already established a policy that attempted to overcome that particular problem: chairs were placed in the wheelchair area for the companions of wheelchair users, as long as those in wheelchairs had first priority.

But Pat Danforth of Regina, who relies on a wheelchair for mobility, wanted to know in advance if she was going to be able to sit with her companions during a concert in 1987. The Agridome was not able to give her that information.

She was told she would have to purchase a ticket in a section reserved for wheelchairs and her companions were required to purchase tickets in an area in front of the wheelchair area, which was at a lower level. Then, prior to show time, if there was room in the wheelchair area, portable chairs would be set up there for her companions.

As it turned out, Danforth was eventually able to watch the show with her husband and son. However, she had no way of knowing she could sit with her family until show time, because she had not been able to make reservations in the same way other members of the public are able to do.

Chief Commissioner, Theresa Holizki, said: "It is important for wheelchair users to be able to reserve spaces for themselves and their friends. There are not many individuals who would willingly choose to go to a performance alone; most wish to share a social experience with others. Wheelchair users are not just looking for access to wheelchair spaces, they want to enjoy the performance in the company of their friends."

The settlement sets out the following points:

- wheelchair users shall be entitled to reserve space for themselves and up to two seat-using companions in the designated wheelchair areas, on the same basis as seats are made available to the public.

- a wheelchair user may be accompanied by more than two seat-using companions on a "rush-seat" basis, if the wheelchair space is not required by other wheelchair users. These additional companions must hold tickets for regular seating.

- removable seats shall be made available to companions of wheelchair users, as required, in the situations set out above.

The Association also agreed that as renovations are made to the Agridome, every reasonable effort will be made to provide better viewing spaces for wheelchair users, and in particular, will take every step that is reasonable to provide a "center-line" viewing area for wheelchair users, which is lacking at the present time.

COMMISSION STAFF

SASKATOON OFFICE

Executive Director
Kenneth C. Jamont

Senior Staff Lawyer
Milton C. Woodard

Chief Human Rights Officer
William Rafoss

Investigators
Genevieve Leslie
Brenda Robertson

Programs Officer
Rene Roy

Communications Officer
Vera-Marie Wolfe

Intake Officer
Pat Cook

Administrative Assistant
Lois Henderson

Stenographers
Jan Cadman
Beverly MacSorley
Karen Ross

Receptionist/Stenographer
Helen Riggs

REGINA OFFICE

Assistant Director
Donalda Ford

Investigators
Daniel Conway
Robin McMillan (on leave)
Grace Crossley

Programs Officer
Pat Danforth

Intake Officer
Delphine Wiley

Senior Stenographer
Laurena Daniels

Stenographer
Lisa Donovan

COMMISSION MATERIALS

1. ***The Saskatchewan Human Rights Code and Regulations.***

2. ***Pamphlets and Brochures:***

Affirmative Action
Application Forms and Interview Guide: A Guideline for Employers and Job Applicants
Doing What's Right: The Saskatchewan Human Rights Code
Filing a Complaint: Now What Happens?
Finding a Home
Human Rights in theWorkplace: An Employer's Guide
Race Discrimination
Rights of Persons with Disabilities
Sexual Harassment
Towards Equality: A Guide to Special Programs in Saskatchewan

3. ***Saskatchewan Human Rights Commission Newsletters***

Vol. 9, #3	Compulsory Retirement: Elements of the Debate
Vol. 9, #4	Sexual Harassment: Taking a Stand
Vol. 10, #1	KKK: An Editorial Statement
Vol. 10, #2	Making Saskatchewan Accessible
Vol. 10, #3	Education System and Human Rights
Vol. 10, #4	Saskatchewan Human Rights Commission Releases Interpretive Documents on Pensions, Employee Benefits and Insurance
Vol. 11, #1	Sexual Harassment: New Developments and Interpretations
Vol. 11, #2	Independence for Human Rights Commission: An Idea Whose Time Has Come
Vol. 11, #3	Canada's Constitution and Charter of Rights and Freedoms
Vol. 11, #4	Aboriginal Peoples of Canada and the Constitutional Process: The Task Ahead
Vol. 12, #1	Affirmative Action and Human Rights in the 1980's
Vol. 12, #2	The 35th Anniversary of the Universal Declaration of Human Rights: A Time to Celebrate
Vol. 12, #3	Arbitrary Arrest and Detention
Vol. 13, #2	Indian and Metis Self-Government in Canada
Vol. 13, #3	Affirmative Action: A New Direction for Schools
Vol. 14, #1	Proposed Amendments to the Saskatchewan Human Rights Code
Vol. 15, #1	After the Decade: Women's Rights in Saskatchewan
Vol. 15, #2	Education Equity Plan Receives Approval
Vol. 16, #1	Discrimination on the Basis of Pregnancy
Vol. 16, #2	Medical Examinations: Guidelines for Employers
Vol. 17, #1	Longtime Commission Members Honored at Reception
Vol. 17, #2	40th Anniversary of Human Rights Declaration
Vol. 17, #3	Appeal Court Decision Goes to Chambers
Vol. 17, #4	Two New Members Appointed to Commission
Vol. 18, #1	Red Eye Case Highlights Weakness in Code
Vol. 18, #2	Saskatchewan Human Rights Code Amended
Vol. 18, #2 (2)	Human Rights Day Celebrated
Vol. 19, #1	Education is the Key to Combatting Racism
Vol. 19, #2	Board Orders Affirmative Action Plan
Vol. 19, #3	Time to Settle Indian Land Entitlement Claims
Vol. 19, #4	Education Materials Launched by Commission

4. ***"On Rights" Saskatchewan Human Rights Commission Schools Newsletter***

Volume 1, No. 1	An Introduction to Human Rights
Volume 1, No. 2	The Canadian Charter of Rights and Freedoms: Section 15: Equality Rights
Volume 2, No. 1	The Canadian Constitution and the Charter of Rights and Freedoms: A History of Civil Liberties in Canada

5. ***Affirmative Action News***

Affirmative Action News No. 1
The Evolution of Affirmative Action
Affirmative Action News No. 2
Affirmative Action: Are Further Steps Necessary?
Affirmative Action News No. 4
Education Equity: A Plan of Action
Affirmative Action News No. 5
A New Direction Needed For Affirmative Action

6. ***Videos***

A Class Divided
Doing What's Right
Behind the Mask (CKTV)
Human Rights, Human Wrongs (Canadian Living Magazine)
Say No to Racism (Regina Public School Board)
Sexual Harassment in the Workplace (Labour Canada)
The New Immigrants

Videos are available on a loan basis.

7. ***Other Materials***

A Manual on the Charter of Rights and Freedoms
Accessibility Standards Guidelines, Revised February 16, 1989
Affirmative Action Legal Provisions
* Affirmative Action: A Case Book of Legislation and Affirmative Action Programs in Saskatchewan
Doing What's Right - Workshop Manual (available on loan basis)
Doing What's Right: Teacher's Resource Guide
Human Rights and Benefits in the 80's: An Interpretation of the Saskatchewan Human Rights Code as it Applies to Pensions, Employee Benefits and Insurance
Prejudice in Social Studies Textbooks along with supplement
Saskatchewan Human Rights Commission Affirmative Action Decisions
Saskatchewan Human Rights Commission Exemption Orders
* Sex Bias in Primary Readers
* TASC Workshop on Handicapism
* TASC Workshop on Racism
* TASC Workshop on Sexism

8. ***Annual Reports 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989***

9. ***Posters***

Protected Categories
Protected Areas
Functions of the Commission

List of Other Publications Distributed by the Commission

Human Rights - Public Legal Education Association of Saskatchewan Publication

These publications are available free of charge by contacting the nearest Commission office.

* *Publications marked with an asterisk are available in print only. All other publications are available in print or on cassette tape.*

Table I
Summary of Complaints Received in 1990 by Grounds and Category

Category	Age	Indian Ancestry	Other* Ancestry	Marital Status	Mental Disability	Physical Disability	Religion**	Sexual Harass.	Sex	Other	Total	Percent
Application Forms										27	27	10.2
Bill of Rights		2					1			7	10	3.8
Contracts		1									1	.4
Education	1	1	3		1	6	2	1	2		17	6.4
Employment	11	8	9	3	4	30	2	30	32	1	130	49.1
Housing		11				1					12	4.5
Occupations								1			1	.4
Prof. Trade and Association			1								1	.4
Public Services	3	16	4	5	3	15	1	2	3	1	53	20.0
Publications		1	8				1				10	3.8
Purchase of Property	1	2									3	1.1
Reprisals											0	0
Trade Unions											0	0
Other											0	0
Percent	6.0	15.8	9.5	3.0	3.0	19.6	2.6	12.8	14	13.6		100

* Includes "race, color, place of origin, nationality"
** Includes "creed"

Table II
Disposition of Complaints

Disposition	Number
No Jurisdiction	13
No Reasonable Grounds	73
Withdrawn	44
Settled	6
No Probable Cause	61
Probable Cause Found	37
Application Forms	27
TOTAL	**261**
Under Investigation	110
GRAND TOTAL	**371**

Table III
At Settlement and Board Level

Disposition	Number
Board Files Carried Forward from 1989	17
Settlement Files Carried Forward from 1989	42
Pre-determination Settlements in 1990	3
Probable Cause Found in 1990	37
TOTAL	**99**

Table IV
Disposition of Settlements

Disposition	Number
Settled without directing formal inquiry	43
Settled after formal inquiry directed	13
TOTAL	**56**

Table V
Disposition of Boards

Disposition	Number
Boards Pending	8
Boards Settled	13
Boards Held	6
TOTAL	**27**